

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

Implementation of Restructuring)	Docket No. 96-IRR-1890
Legislation (Public Utilities Code)	
section 374 [AB 1890]) Irrigation)	
Districts)	
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**HUNT-WESSON COMMENTS ON IRRIGATION DISTRICT
APPLICATIONS FOR COMPETITION TRANSITION COST
EXEMPTIONS**

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I. INTRODUCTION

Hunt-Wesson, Inc. ("Hunt-Wesson") appreciates this opportunity to comment on the competition transition charge ("CTC") exemption applications ("Applications") filed by irrigations districts in Pacific Gas and Electric Company's ("PG&E") service territory. As a leading California food processor, significant employer, and substantial electricity consumer, Hunt-Wesson's goal is to strategically position its facilities within California (and throughout the United States) to maximize efficiencies and successfully compete in world markets. Hunt-Wesson views the opportunity to purchase electricity from an irrigation district to supply its Oakdale facility as just such a competitive opportunity.

Hunt-Wesson has owned its Oakdale facility since the early 1940's. The Oakdale facility employs approximately 900 people during the peak season to process tomatoes for Hunt-Wesson products such as "Healthy Choice" spaghetti sauce, whole canned tomatoes, and tomato paste. The Oakdale facility is a "total" processing plant, receiving the whole tomatoes from growers, processing them for their end-use, and even manufacturing the cans that the tomato product is ultimately sold in. The Oakdale facility has expanded several times over the last 50 years and it is again in an expansion phase today. Hunt-Wesson, through the Oakdale facility, regularly contributes as a "corporate citizen" to the surrounding community of Oakdale.

Hunt-Wesson has actively participated throughout this proceeding as perhaps the only retail consumer of electricity. Hunt-Wesson filed comments for, and made an appearance at, the November 5, 1996 Committee Workshop held in Merced. Hunt-Wesson also filed comments on

the issues raised at the Committee Conference held on December 6, 1996.

Hunt-Wesson submits these comments to encourage this Commission continue to adhere to the procompetitive, consumer benefit mandate of AB 1890 and its own policy statements made in this proceeding. These directives require this Commission to allocate CTC exemptions to those irrigation districts whose Applications demonstrate viability and will maximize the usage of the CTC exemptions during the allocation period and deliver competitive benefits for customers. The Modesto Irrigation District ("MID") Application satisfies AB 1890's and this Commission's express requirements for viability and specificity and it will indisputably advance the procompetitive goals of AB 1890 to benefit California energy consumers.

MID is the only applicant with existing retail distribution facilities; MID is the applicant with the most credible plan to expand those facilities to fully use the CTC exemption it requests in all five years of the allocation; and MID is the only applicant with customers, like Hunt-Wesson, committed to purchasing power from it immediately.¹ Consequently, this Commission must assure that the intended competitive benefits of AB 1890 are realized by granting MID's requested allocation.

Both MID and Oakdale Irrigation District ("OID") have named Hunt-Wesson as a potential customer in their applications. Hunt-Wesson has been in discussions with both districts regarding retail electric purchases. However, at that time, Hunt-Wesson's discussions with MID have proceeded substantially and it is the parties' mutual intent to execute a retail electric sale agreement shortly.

II. AB 1890 IS INTENDED TO BENEFIT CUSTOMERS BY PRESERVING AND FOSTERING CREDIBLE COMPETITIVE OPTIONS

Section 1 of AB 1890² states the intent of the Legislature in passing AB 1890 to ensure the smooth transition to a "more competitive electricity market structure [which] allows [California's] ... citizens and businesses to achieve the economic benefits of industry restructuring at the earliest possible date ..." (Emphasis added).

Section 374 implements this legislative intent by providing for 110 MW of CTC exemptions on irrigation district retail sales. Section 374 reflects the Legislature's recognition of the competitive benefits already produced by irrigation districts under their long-standing "statutory authority" to sell electricity at retail throughout the state and in direct competition with investor-owned utilities ("IOUs"). See Cal. Water Code § 22115 et seq.; see also § 374(a). The Legislature offered CTC exemptions to irrigation districts in order to preserve at least some portion of these competitive benefits during the transition period.

By attempting to ensure the continued existence of retail competitive alternatives to IOUs, the Legislature intended the CTC exemptions provided in § 374 to benefit customers, like Hunt-Wesson, who must compete globally under the burden of California's high electric rates. Section 374's CTC exemptions were definitely not intended, as some of the Applications imply, to finance speculative ventures into retail sales by irrigation districts, without facilities, without a

Unless otherwise stated, all section references are to AB 1890.

credible proposal, and without committed customers.³ Diverting CTC exemptions from viable irrigation districts that will maximize their intended application, such as MID, is contrary to the intent of AB 1890 to promote and preserve competitive options for retail customers.

III. THE COMMISSION SHOULD ALLOCATE CTC EXEMPTIONS TO THOSE IRRIGATION DISTRICTS EQUIPPED TO MAXIMIZE THEIR APPLICATION

AB 1890 encourages the Commission to allocate the load eligible for CTC exemptions "in a manner that best ensures its usage within the allocation period." § 374(a)(1)(C). The Commission has appropriately embraced this approach by emphasizing that proposals must be viable and timely: "[t]he recommended [CTC exemption] allocations will be based on an appraisal of 'the viability of each submission and whether it can be accomplished in the time frame proposed.'" December 24, 1996 Cover Letter to Application Instructions at 1 ("Cover Letter"), citing § 374(a)(1)(C).

MID's is the Application which will most realistically be able to use all of the CTC exemption allocation it requests. Additionally, MID is the applicant that can most realistically accomplish its goals "in the time frame proposed." Id.

One Application candidly acknowledges that the irrigation district is not currently viable as an electricity provider and it will not be viable for several years, if ever:

GCID has not yet had sufficient time to fully study and evaluate either the appropriateness of this application or feasibility. Given the time constraints and time limitations involved with this filing, GCID determined that it would be prudent to file the application and then diligently pursue both the underpinnings of this filing as well as the feasibility of proceeding as proposed.

-Colusa Irrigation District Application at 3.

MID is an established electric utility, with over 70 years experience serving retail electric customers. Last year MID supplied a total of over 1 billion kWhr to over 90,000 electric customers. MID Application at 2. MID owns its own distribution facilities. MID's Board has now committed MID to developing a "direct access program" "which will be implemented in a time frame consistent with the CPUC program." See MID Board Resolution 96-31, MID Application, Appendix 3. MID's Board has also committed MID to expanding its service and facilities outside its present service area. See MID Board Resolution 95-138, MID Application, Appendix 3. As one step in this expansion process MID has "contractually committed" itself to providing electric service throughout the communities of Escalon, Ripon, and Riverbank within 3 years and has begun to build electric facilities to serve customers in these areas. MID Application at 3. The Commission's approval of MID's Application will best assure this planned expansion of the availability of MID power as a viable competitive alternative to IOU service.

The other applicants have not produced a credible and long range plan to provide customers immediate competitive options to the monopoly IOUs, or even to accomplish their goals "in the time frame proposed." None of the other applicants currently provides retail electric service, nor will they be equipped to provide it within less than six months to a year. Among other things, a retail electric service provider must have in place distribution facilities, a billing system, committed customers, and a staff to address customer concerns. None of the Applications adequately address all of these features. Only MID's Application meets these

criteria.

Though not a prerequisite to providing electric service, no other competing applicant owns, or has immediate plans to buy or build its own distribution facilities absent a CTC exemption allocation from this Commission.⁴ No applicant, other than MID, is dedicated to maintaining a distribution system capable of continuing to provide retail service after the CTC exemptions have expired. Instead, the Applications outline a series of "probabilities" that might occur if the applicant receives the CTC exemption it requests. Thus, none of the applicants appear credibly poised to be a competitive player in the restructured electric market.

In contrast, and consistent with the pro-electric consumer objectives underlying AB 1890, MID is committed to being a long term player in the California electric market. MID's Application demonstrates that all of its requested CTC allocation will be used to facilitate its competitive growth and directly benefit California electric consumers such as Hunt-Wesson.

IV. APPLICATIONS MUST MEET THE SPECIFICITY REQUIREMENTS OF AB 1890 AND THIS COMMISSION

As this Commission has properly recognized, and repeatedly emphasized, § 374 requires that Applications shall contain "detailed plans" including:

specific information on the irrigation districts' organization for electric distribution, contracts, financing and engineering plans for capital facilities, as well as detailed information about the loads to be served ..."

Cover Letter, citing § 374(a)(1)(C) (emphasis added).

see infra, note **Error! Bookmark not defined..**

Though many of the Applications contain a great deal of "specific information," none of the Applications, except MID's, contains "specific information" adequate to enable the Commission to conclude that the proposal to use CTC exemptions is "viable" within "the timeframe proposed."

Among other matters, § 374 requires, and this Commission has appropriately insisted, that Applications must contain "specific information on the irrigation district's organization for electric distribution." § 374(a)(1)(C). The applicants' responses on this issue alone demonstrate that almost all of the Applications may not be "viable" within "the timeframe proposed."

The details contained in MID's Application demonstrate MID's commitment to expand its distribution facilities to create a competitive alternative to IOU service. With regard to providing service to Hunt-Wesson, MID's Application first contains engineering plans for building facilities in the City of Oakdale. It also provides information describing the status of permits and rights of way authority in the areas of proposed construction. Moreover, it has even prepared the "Initial Study Environmental Assessment" for its intended electric service to the City of Oakdale and the Hunt-Wesson facilities. See MID Application, Appendix 9.

In contrast, the competing Applications in PG&E's service territory, through their lack of "specific information" of the type provided in the MID Application, strongly suggest that few of the applicants will be able to fully utilize the CTC exemption allocations requested. The competing Applications almost universally⁵ contemplate building facilities parallel to PG&E or

Madera Irrigation District is one exception. It proposes to lease a distribution facility from one customer to serve o

purchasing or leasing facilities from PG&E. In actuality, as demonstrated by their lack of construction-related information such as permits, environmental assessments, and rights of way authority, it is quite likely that almost every applicant intending to use a CTC exemption allocation in 1997 or 1998 will necessarily rely upon the availability of PG&E facilities to provide service in those years. Although leasing facilities may be a viable method of providing service, if PG&E is unwilling or unable to timely negotiate the lease or purchase of their distribution facilities, CTC exemptions may languish indefinitely. AB 1890 intends to avoid such a waste of CTC exemptions by requiring, as the Commission has insisted, that the Applications contain the "specific information" necessary to demonstrate the timely viability of the request.

V. CONCLUSION

Hunt-Wesson seeks to ensure that this Commission continue to implement the procompetitive intent of AB 1890 and its own policy statements through the CTC exemption allocation process. The Commission will achieve this result by providing allocations to those applicants who have presented credible proposals to provide competition which will ensure that California's " ... citizens and businesses ... achieve the economic benefits of industry restructuring at the earliest possible date ..." AB 1890, § 1 (emphasis added). As demonstrated by the above discussion, if approved, MID's Application is the most likely to result in almost immediate competitive benefits to California electric consumers. Consequently, this Commission should

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grant MID's requested allocation.

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